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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**Audrey Davis, an individual,**

NO. 3:21-cv-08249-DLR

Plaintiff,

V.

**Rhondie Voorhees**, personally and as  
Dean of Students at Embry-Riddle Aeronautical  
University; **The Embry-Riddle Aeronautical  
University Board Of Trustees**; **Embry-  
Riddle Aeronautical University**; and **Tyler  
Smith**, an individual,

## Defendants.

**RHONDIE VOORHEES'S  
ANSWER TO FIRST  
AMENDED COMPLAINT AND  
COUNTERCLAIM**

**DEMAND FOR JURY TRIAL**

## Rhondie Voorhees, an individual

### Counterclaimant.

V.

**Audrey Davis**, an individual,

## Counterdefendant.

Defendant/Counterclaimant Rhondie Voorhees (“Dr. Voorhees”) by and through undersigned counsel, hereby responds to Plaintiff’s First Amended Complaint (Doc. 49), raises her affirmative defenses, and asserts her counterclaims. Dr. Voorhees denies each and every allegation in the Complaint not specifically admitted herein. Dr. Voorhees incorporates certain headings used by Plaintiff in the Complaint for convenience and ease of reference, and hereby denies any allegations, assertions or inferences associated with any headings used by Plaintiff. With respect to the specific corresponding paragraphs of the Complaint, Dr. Voorhees responds as follows:

## ANSWER TO COMPLAINT

## INTRODUCTION

Dr. Voorhees denies all allegations pertaining to her made by Plaintiff in the Introduction to the Complaint. Dr. Voorhees further avers that Plaintiff's allegations pertaining to Dr. Voorhees are frivolous and are being presented for an improper purpose, have no evidentiary support, are incapable of having evidentiary support in the future, and were knowingly false when made. Plaintiff is hereby notified that Dr. Voorhees will be seeking sanctions under Fed. R. Civ. P. 11 and/or A.R.S. § 12-1349 at the appropriate time in the future.

## **VENUE, JURISDICTION, AND PARTIES**

1. Dr. Voorhees denies the allegations contained in Paragraph 1 of the Complaint.

2. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the

1 allegations in Paragraph 2 of the Complaint and therefore denies the same.

2 3. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
3 allegations in Paragraph 3 of the Complaint and therefore denies the same.

4 4. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
5 allegations in Paragraph 4 of the Complaint and therefore denies the same.

7 5. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
8 the allegations in Paragraph 5 of the Complaint and therefore denies the same.

10 6. Responding to Paragraph 6 of the Complaint, Dr. Voorhees admits that  
11 Embry-Riddle Aeronautical University (“ERAU”) has a campus in Prescott, Arizona, and  
12 that Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 et seq.  
13 may apply to ERAU under certain circumstances. Dr. Voorhees lacks sufficient  
14 knowledge or information to admit or deny the balance of the allegations in Paragraph 6  
15 of the Complaint and therefore denies the same.

17 7. No response to Paragraph 7 is required.

19 **FACTUAL ALLEGATIONS**

20 8. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
21 allegations in Paragraph 8 of the Complaint and therefore denies the same.

23 9. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
24 allegations in Paragraph 9 of the Complaint and therefore denies the same.

26 10. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
27 allegations in Paragraph 10 of the Complaint and therefore denies the same. Dr. Voorhees

1 further avers that she is not certain whether she was employed by ERAU at the time of  
2 this alleged incident or when Plaintiff submitted a grievance with ERAU under Title IX.  
3 In any event, Dr. Voorhees further avers that she has no oversight or supervision over any  
4 Title IX matters at ERAU.  
5

6 11. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
7 allegations in Paragraph 11 of the Complaint and therefore denies the same.  
8

9 12. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
10 allegations in Paragraph 12 of the Complaint and therefore denies the same.  
11

12 13. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
13 allegations in Paragraph 13 of the Complaint and therefore denies the same.  
14

15 14. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
16 allegations in Paragraph 14 of the Complaint and therefore denies the same.  
17

18 15. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
19 allegations in Paragraph 15 of the Complaint and therefore denies the same.  
20

21 16. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
22 allegations in Paragraph 16 of the Complaint and therefore denies the same.  
23

24 17. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
25 allegations in Paragraph 17 of the Complaint and therefore denies the same.  
26

27 18. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
28 allegations in Paragraph 18 of the Complaint and therefore denies the same.  
29

30 19. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
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1 allegations in Paragraph 19 of the Complaint and therefore denies the same.

2 20. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
3 allegations in Paragraph 20 of the Complaint and therefore denies the same.

4 21. Responding to Paragraph 21 of the Complaint, Dr. Voorhees admits this  
5 allegation to the very limited extent that Plaintiff attempted to escalate her dissatisfaction  
6 to Dr. Voorhees. However, it was explained to Plaintiff multiple times and in many ways  
7 that Dr. Voorhees was not involved in overseeing or supervising Title IX matters at  
8 ERAU, that the reporting lines and structures for Title IX matters at ERAU required Dr.  
9 Voorhees to defer to ERAU's Title IX coordinator and that person's supervisor, the Vice  
10 President and General Counsel for ERAU, and that Plaintiff would need to address the  
11 issue with ERAU's Vice President. Dr. Voorhees denies the balance of the allegations  
12 and implications in Paragraph 21..

13 22. Dr. Voorhees denies the allegations contained in Paragraph 22 of the  
14 Complaint.

15 23. Dr. Voorhees denies the allegations contained in Paragraph 23 of the  
16 Complaint.

17 24. Dr. Voorhees denies the allegations contained in Paragraph 24 of the  
18 Complaint.

19 25. The allegations contained in Paragraph 25 of the Complaint were knowingly  
20 false when made by Plaintiff and are sanctionable. Nowhere in the articles cited by  
21 Plaintiff in the defamatory petition she published on Change.org was there any allegation  
22

1 that Dr. Voorhees was run out of her prior position at the University of Montana because  
2 of her hostility toward a sexual assault victim there. In fact, one of the articles cited by  
3 Plaintiff noted how Dr. Voorhees was praised for her work by a victim. Moreover,  
4 Plaintiff has since learned that Dr. Voorhees's departure from the University of Montana  
5 stemmed from her efforts to bring to light concerns about Title IX violations and student  
6 and campus safety, especially for female students and faculty, as well as her own safety.  
7 Dr. Voorhees denies the allegations contained in Paragraph 25 of the Complaint.  
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10 26. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
11 allegations in Paragraph 26 of the Complaint and therefore denies the same.  
12

13 27. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
14 allegations in Paragraph 27 of the Complaint and therefore denies the same.  
15

16 28. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
17 allegations in Paragraph 28 of the Complaint and therefore denies the same.  
18

19 29. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
20 allegations in Paragraph 29 of the Complaint and therefore denies the same.  
21

22 30. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
23 allegations in Paragraph 30 of the Complaint and therefore denies the same.  
24

25 31. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
26 allegations in Paragraph 31 of the Complaint and therefore denies the same.  
27

28 32. Responding to Paragraph 32 of the Complaint, Dr. Voorhees admits that, on  
or about February 15, 2021, Plaintiff published the petition attached as Exhibit 1 to the  
29

1 Complaint on Change.org (the “Petition”). Dr. Voorhees denies the balance of the  
2 allegations and implications in Paragraph 32. Dr. Voorhees further avers that Plaintiff  
3 knowingly published false and defamatory statements on Change.org to maliciously harm  
4 her reputation and career.  
5

6 33. Dr. Voorhees denies that Plaintiff had a right to publish the Petition; Dr.  
7 Voorhees lacks sufficient knowledge or information to admit or deny the balance of the  
8 allegations in Paragraph 33 of the Complaint and therefore denies the same.  
9

10 34. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
11 allegations in Paragraph 34 of the Complaint and therefore denies the same.  
12

13 35. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
14 allegations contained in Paragraph 35 of the Complaint and therefore denies the same.  
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16 36. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
17 allegations in Paragraph 36 of the Complaint and therefore denies the same.  
18

19 37. Dr. Voorhees denies the allegations in Paragraph 37 of the Complaint.  
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21 38. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
22 allegations in Paragraph 38 of the Complaint and therefore denies the same.  
23

24 39. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
25 allegations contained in Paragraph 39 of the Complaint and therefore denies the same.  
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27 40. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
28 allegations in Paragraph 40 of the Complaint and therefore denies the same.  
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30 41. Dr. Voorhees denies the allegations contained in Paragraph 41 of the  
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1 Complaint. Dr. Voorhees further avers that she does not handle Title IX matters and  
2 therefore cannot “mishandle” them. Moreover, Plaintiff was informed of this many  
3 times, and Plaintiff acknowledged that she understood; yet, after acknowledging her  
4 understanding, Plaintiff maliciously published the false and defamatory Petition directly  
5 targeted at Dr. Voorhees.

6  
7 42. Dr. Voorhees denies the allegations in Paragraph 42 of the Complaint.

8  
9 43. Dr. Voorhees denies the allegations in Paragraph 43 of the Complaint.

10  
11 44. Responding to Paragraph 44 of the Complaint, Dr. Voorhees admits that she  
12 hired counsel to help facilitate a resolution between her and Plaintiff. Dr. Voorhees  
13 denies the balance of the allegations and implications in Paragraph 44.

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15 45. Dr. Voorhees denies the allegations contained in Paragraph 45 of the  
16 Complaint.

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18 46. Dr. Voorhees denies the allegations contained in Paragraph 46 of the  
19 Complaint.

20  
21 47. Responding to Paragraph 47 of the Complaint, Dr. Voorhees admits that she  
22 sued Plaintiff for defamation in Yavapai County Superior Court (the “Defamation  
23 Lawsuit”). Dr. Voorhees denies the balance of the allegations and implications in  
24 Paragraph 47.

25  
26 48. Dr. Voorhees denies the allegations contained in Paragraph 48 of the  
27 Complaint. Dr. Voorhees further avers that (1) Plaintiff participates in the Army ROTC  
28 program; (2) the Army’s own website states that ROTC participants are not enlisted in

1 the Army and will not be sent to boot camp;<sup>1</sup> (3) Plaintiff was personally served with the  
 2 Defamation Lawsuit at her mother's home in North Carolina on June 7, 2021; (4)  
 3 Plaintiff was married to her current husband on June 19, 2021; (5) Plaintiff did not start  
 4 participating in any ROTC training exercises until July 7, 2021; and (6) Plaintiff  
 5 strategically waited to file anything in the Defamation Lawsuit until after Dr. Voorhees  
 6 filed a request for entry of default and while Plaintiff was participating in the ROTC  
 7 training exercises.  
 8

9  
 10 49. Dr. Voorhees denies the allegations contained in Paragraph 49 of the  
 11 Complaint. Dr. Voorhees further avers that Plaintiff's father never stated that Plaintiff  
 12 would be on "active duty" in his email to Dr. Voorhees's counsel. Moreover, his email to  
 13 counsel was riddled with blatant misstatements and falsehoods. Consequently, in addition  
 14 to similar instances in the past, his statements were not credible.  
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16  
 17 50. Dr. Voorhees denies the allegations contained in Paragraph 50 of the  
 18 Complaint. Dr. Voorhees further avers that the request for entry of default was made in  
 19 the Defamation Lawsuit on July 8, 2021 before receiving any notice that Plaintiff was  
 20 claiming to be on "active duty." In the Defamation Lawsuit, on July 19, 2021, Plaintiff  
 21 filed a Motion to Continue under 50 U.S.C.A. § 3932. This was the first time Dr.  
 22 Voorhees received notice that Plaintiff was claiming to be on "active duty." Moreover,  
 23 given that Plaintiff was not enlisted in the Army (according to the Army's own website)  
 24 and merely participating in an ROTC training exercise, Plaintiff's claim to be on "active  
 25 duty" was highly suspect. Moreover, Plaintiff failed to meet the very basic requirements  
 26  
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28<sup>1</sup> See ROTC FAQ, attached as **Exhibit 1** hereto.

1 needed to obtain a continuance under 50 U.S.C.A. § 3932. And even after retaining  
2 counsel, and filing an abundance of improper motions and documents in the Defamation  
3 Lawsuit,<sup>2</sup> Plaintiff never complied with the most basic requirement of § 3932 – “A letter  
4 or other communication from the servicemember's commanding officer stating that the  
5 servicemember's current military duty prevents appearance and that military leave is not  
6 authorized for the servicemember at the time of the letter.” 50 U.S.C.A. § 3932(b).  
7

8       51. Dr. Voorhees denies the allegations contained in Paragraph 51 of the  
9 Complaint..

11       52. Dr. Voorhees denies the allegations contained in Paragraph 52 of the  
12 Complaint..

14       53. Dr. Voorhees denies the allegations contained in Paragraph 53 of the  
15 Complaint. Dr. Voorhees further avers that it was Plaintiff's own conduct that caused her  
16 any purported damages. Had Plaintiff elected to appropriately deal with the Defamation  
17 Lawsuit, rather than wrongfully seek to take advantage of the Servicemembers Civil  
18 Relief Act (“SCRA”), along with needlessly filing improper motions to rack up  
19 attorneys' fees, Plaintiff would have no damages and the dispute between Dr. Voorhees  
20 and Plaintiff would have been resolved long ago. However, it is apparent that Plaintiff is  
21 attempting to use Dr. Voorhees as an instrument to obtain settlement monies from

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25       2 Upon information and belief, Plaintiff was aware that filing a motion to dismiss in the  
26 Defamation Lawsuit was improper given the pending Motion to Continue and entry of  
27 default, but that Plaintiff filed the motion to dismiss, along with other documents riddled  
28 with incendiary statements, for the purpose of feeding misinformation to the media, as  
well as artificially and improperly inflating Plaintiff's attorneys' fees. Plaintiff  
purposefully made a spectacle out of the Defamation Lawsuit, and Plaintiff now seeks to  
continue with her defamatory media spectacle in this lawsuit.

1 ERAU.

2 **COUNT I**

3 **COUNT I TITLE IX VIOLATIONS by ERAU**

4 **GENDER/SEX DISCRIMINATION, HOSTILE ENVIRONMENT**

5 64. Responding to Paragraph 54 of the Complaint, Dr. Voorhees hereby  
7 incorporates by reference all of her responses in the paragraphs above and below as  
8 though fully set out herein.

9 55. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
10 allegations in Paragraph 55 of the Complaint and therefore denies the same.

11 56. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
12 allegations in Paragraph 56 of the Complaint and therefore denies the same.

13 57. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
14 allegations in Paragraph 57 of the Complaint and therefore denies the same.

15 58. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
16 allegations in Paragraph 58 of the Complaint and therefore denies the same.

17 59. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
18 allegations in Paragraph 59 of the Complaint and therefore denies the same.

19 60. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
20 allegations in Paragraph 60 of the Complaint and therefore denies the same.

21 61. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the  
22 allegations in Paragraph 61 of the Complaint and therefore denies the same.

62. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 62 of the Complaint and therefore denies the same.

63. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 63 of the Complaint and therefore denies the same.

64. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 64 of the Complaint and therefore denies the same.

65. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 65 of the Complaint and therefore denies the same.

66. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 66 of the Complaint and therefore denies the same.

67. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 67 of the Complaint and therefore denies the same.

68. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 68 of the Complaint and therefore denies the same.

## COUNT II

## RETALIATION BY ERAU

69. Responding to Paragraph 69 of the Complaint, Dr. Voorhees hereby incorporates by reference all of her responses in the paragraphs above and below as though fully set out herein.

70. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 70 of the Complaint and therefore denies the same.

71. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 71 of the Complaint and therefore denies the same.

72. Dr. Voorhees denies the allegations contained in Paragraph 72 of the Complaint.

73. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 73 of the Complaint and therefore denies the same.

74. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 74 of the Complaint and therefore denies the same.

75. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 75 of the Complaint and therefore denies the same.

76. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 76 of the Complaint and therefore denies the same.

### COUNT III

## **VIOLATION OF THE SCRA BY DEAN RHONDIE VOORHEES**

77. Responding to Paragraph 77 of the Complaint, Dr. Voorhees hereby incorporates by reference all of her responses in the paragraphs above and below as though fully set out herein.

78. Responding to Paragraph 78 of the Complaint, no response is required.

79. Responding to Paragraph 79 of the Complaint, no response is required.

80. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 80 of the Complaint and therefore denies the same.

1       81. Responding to Paragraph 81 of the Complaint, Dr. Voorhees admits that her  
2 counsel filed the declaration required under Ariz. R. Civ. P. 55, and that the declaration  
3 was true and correct when filed. Dr. Voorhees further avers that (1) Plaintiff participates  
4 in the Army ROTC program; (2) the Army's own website states that ROTC participants  
5 are not enlisted in the Army and will not be sent to boot camp;<sup>3</sup> (3) Plaintiff was  
6 personally served with the Defamation Lawsuit at her mother's home in North Carolina  
7 on June 7, 2021; (4) Plaintiff was married to her current husband on June 19, 2021; (5)  
8 Plaintiff did not start participating in any ROTC training exercises until July 7, 2021; (6)  
9 the request for entry of default was made in the Defamation Lawsuit on July 8, 2021  
10 before receiving any notice that Plaintiff was claiming to be on "active duty; (7) on July  
11 19, 2021, Plaintiff filed a Motion to Continue under 50 U.S.C.A. § 3932, and this was the  
12 first time Dr. Voorhees received notice that Plaintiff was claiming to be on "active duty";  
13 (8) no *default judgment* was ever entered against Plaintiff in the Defamation Lawsuit; and  
14 (9) Dr. Voorhees voluntarily dismissed the Defamation Lawsuit without prejudice,  
15 rendering the *entry* of default null and void. Dr. Voorhees denies the balance of the  
16 allegations and implications in Paragraph 81.

17       82. Dr. Voorhees denies the allegations contained in Paragraph 82 of the  
18 Complaint.

19       83. Dr. Voorhees denies the allegations contained in Paragraph 83 of the  
20 Complaint.

21       84. Dr. Voorhees denies the allegations contained in Paragraph 84 of the

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22       <sup>3</sup> See ROTC FAQ, attached as Exhibit 1 hereto.

1 Complaint. Plaintiff was not handicapped in her ability to defend. Instead, she chose to  
2 ignore the Defamation Lawsuit for almost an entire month, and then sought to take  
3 advantage of the SCRA as soon as she started her ROTC training.

4 85. Dr. Voorhees denies the allegations contained in Paragraph 85 of the  
5 Complaint.

7 86. Responding to Paragraph 86 of the Complaint, no response is required.

8 87. Responding to Paragraph 87 of the Complaint, no response is required.

10 88. Dr. Voorhees denies the allegations contained in Paragraph 88 of the  
11 Complaint.

12 89. Dr. Voorhees denies the allegations contained in Paragraph 89 of the  
13 Complaint.

14 90. Dr. Voorhees denies the allegations contained in Paragraph 90 of the  
15 Complaint.

16 91. Dr. Voorhees denies the allegations contained in Paragraph 91 of the  
17 Complaint. Dr. Voorhees further avers that it was Plaintiff's own conduct that caused her  
18 any purported damages. Had Plaintiff elected to appropriately deal with the Defamation  
19 Lawsuit, rather than seeking to take advantage of the SCRA, along with needlessly filing  
20 improper motions to rack up attorneys' fees, Plaintiff would have no damages and the  
21 dispute between Dr. Voorhees and Plaintiff would have been resolved long ago.

22 **COUNT IV**

23 **RESPONDEAT SUPERIOR - SCRA**

92. Responding to Paragraph 92 of the Complaint, Dr. Voorhees hereby incorporates by reference all of her responses in the paragraphs above and below as though fully set out herein.

93. Dr. Voorhees denies the allegations contained in Paragraph 93 of the Complaint.

94. Dr. Voorhees denies Plaintiff is entitled to any relief, including the relief referenced in Paragraph 94 of the Complaint. Dr. Voorhees further avers that Plaintiff's allegations pertaining to Dr. Voorhees are frivolous and are being presented for an improper purpose, have no evidentiary support, are incapable of having evidentiary support in the future, and were knowingly false when made. Plaintiff is again hereby notified that Dr. Voorhees will be seeking sanctions under Fed. R. Civ. P. 11 and/or A.R.S. § 12-1349 at the appropriate time in the future.

## COUNT V

## **RESPONDEAT SUPERIOR**

95. Responding to Paragraph 95 of the Complaint, Dr. Voorhees hereby incorporates by reference all of her responses in the paragraphs above and below as though fully set out herein.

96. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 96 of the Complaint and therefore denies the same.

97. Dr. Voorhees denies Plaintiff is entitled to any relief, including the relief referenced in Paragraph 97 of the Complaint.

## AFFIRMATIVE DEFENSES

Without admitting the truth of any allegation set forth in the Complaint, Dr. Voorhees asserts the following affirmative defenses to the claims purportedly stated therein:

1. The Complaint, and each and every claim alleged therein, fails to allege facts sufficient to state a claim upon which relief may be granted.
2. Plaintiff's alleged damages, if any, are the direct and proximate result of intervening and superseding acts of third parties not affiliated with Dr. Voorhees and/or not under Dr. Voorhees's domain or control.
3. Plaintiff is estopped, in whole or in part, from asserting the claims alleged in the Complaint by virtue of the Plaintiff's own acts and omissions.
4. Plaintiff is barred from recovery by virtue of her own unlawful and/or inequitable conduct, which constitutes unclean hands/*in pari delicto*.
5. Plaintiff is barred from recovery by virtue of her failure to mitigate damages and her failure and refusal to take such actions as reasonably necessary to minimize any loss which may have been sustained.
6. Any damages or loss sustained by each Plaintiff was proximately caused and/or contributed to by Plaintiff's own conduct, or the acts and/or omissions of Plaintiff's agents, thereby precluding Plaintiff's claims entirely, reducing Plaintiff's recoverable damages, and/or entitling Dr. Voorhees to a proportional set-off.
7. Plaintiff is barred from recovery by the doctrine of contributory negligence

1 or comparative fault because any damages allegedly sustained by Plaintiff were caused  
2 by Plaintiff, others, and/or non-parties at fault.

3       8. Dr. Voorhees asserts all additional affirmative defenses in Rules 8 and 12  
4 of the Federal Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's  
5 recovery. Dr. Voorhees alleges that she cannot fully anticipate all affirmative defenses  
6 that may be applicable to this action. Accordingly, the right to assert additional  
7 affirmative defenses, if and to the extent that such affirmative defenses are applicable, is  
8 hereby reserved.

9       11 WHEREFORE, having fully answered Plaintiff's Complaint, Dr. Voorhees  
10 respectfully requests the Court to enter judgment as follows:

11       14 A. Plaintiff's Complaint be dismissed with prejudice and that Plaintiff take  
12 nothing thereby;

13       16 B. Dr. Voorhees be granted judgment in her favor;

14       18 C. A finding, under A.R.S. § 12-1349, that Plaintiff brought her claims  
15 without substantial justification, Plaintiff brought her claims to harass Dr.  
16 Voorhees and/or unreasonably expanded the proceeding.

17       20 D. A finding, under Fed. R. Civ. P. 11, Plaintiff's allegations pertaining to Dr.  
18 Voorhees are frivolous and are being presented for an improper purpose,  
19 have no evidentiary support, are incapable of having evidentiary support in  
20 the future, and were knowingly false when made.

21       22 E. Dr. Voorhees be awarded her reasonable attorneys' fees and costs, as well

22

1 as sanctions pursuant to Fed. R. Civ. P. 11, A.R.S. §§ 12-341 and 12-1349;

2 and

3 F. For such other and further relief as the Court deems just and proper.

4

5 **COUNTERCLAIM**  
**(unmodified restatement of original)**

6 Defendant/Counterclaimant Rhondie Voorhees (“Dr. Voorhees”) alleges as  
7 follows for her counterclaim against Plaintiff (“Davis”):

8

9 **PARTIES, JURISDICTION AND VENUE**

10 1. Dr. Voorhees resides in Yavapai County, Arizona.

11 2. Davis, at all relevant times hereto, was a resident of Yavapai County,  
12 Arizona.

13 3. Although Davis is currently married, all tortious conduct alleged herein was  
14 performed by Davis before her marriage on June 19, 2021.

15 4. This Court has supplemental jurisdiction over the Counterclaim pursuant to  
16 28 U.S.C. § 1337 because the claims are so related to Plaintiff’s claims in the action that  
17 they form part of the same case or controversy under Article III of the United States  
18 Constitution.

19 5. Upon information and belief, jurisdiction and venue are proper in this  
20 Court.

21

22 **FACTS**

23 6. All of the allegations contained within the paragraphs above and below are  
24 hereby incorporated by reference as if fully set out herein.

1       7.     Dr. Voorhees is the Dean of Students at Embry-Riddle Aeronautical  
2 University in Prescott, Arizona (“ERAU”).

3       8.     Davis is currently a student at ERAU.

4       9.     Upon information and belief, in 2019, Davis filed a complaint with ERAU  
5 under Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 et  
6 seq.

7       10.    Davis was displeased with how ERAU investigated the Title IX complaint  
8 and/or its findings.

9       11.    In September of 2020, Davis met with Dr. Voorhees regarding Davis’s  
10 concerns. Two members of Davis’s Army ROTC cadre leadership were also present at  
11 that meeting (Major Jackson and SFC J. DiCenzo).

12       12.    While Dr. Voorhees attempted to be empathetic to Davis’s concerns, Dr.  
13 Voorhees made it very clear to Davis during the meeting that Dr. Voorhees is not, and  
14 has never been, involved with overseeing or supervising any Title IX issues at ERAU.

15       13.    Dr. Voorhees made it clear to Davis that Dr. Voorhees did not oversee or  
16 supervise Title IX matters at ERAU, and if Davis had concerns about a Title IX matter,  
17 then she should address it to the Title IX Coordinator’s supervisor, who is the Vice  
18 President and General Counsel for the University.

19       14.    Dr. Voorhees drew a diagram for Davis on a whiteboard depicting the  
20 supervision structure of Title IX management on campus.

21       15.    More specifically, Dr. Voorhees drew a chart showing how Dr. Voorhees  
22

1 supervises another administrator on a half-time basis in her role as Associate Dean of  
 2 Students only, and how this administrator reports to ERAU's legal counsel for her other  
 3 half-time role as Title IX Coordinator.<sup>4</sup>

4 16. Dr. Voorhees made it very clear to Davis that Dr. Voorhees had never read  
 5 Davis's entire case file and was unaware of all details concerning Davis's case.

6 17. During the meeting, Davis acknowledged her understanding that Dr.  
 7 Voorhees has nothing to do with any Title IX matters.

8 18. Surprisingly, however, on or about February 15, 2021, Davis published  
 9 several false and defamatory statements on Change.org (the "Petition"). *See* Petition,  
 10 attached as **Exhibit 2** hereto.

11 19. Davis knowingly made the false factual implication that Dr. Voorhees was  
 12 not only responsible for Davis's investigation taking over 150 days, but that Dr.  
 13 Voorhees was also responsible for how things were handled post-investigation, even  
 14 though Davis was well aware that this was false.

15 20. Davis also falsely published that "Dean of Students Rhondie Voorhees was  
 16 asked to leave her last position at University of Montana for the culture she, and other  
 17 staff members perpetuated regarding how the college system of justice handles rape."

18 21. As stated in at least one of the articles cited by Davis in the Petition, the  
 19 University of Montana stated that they elected not to renew Dr. Voorhees's contract  
 20 because the Dean of Students position was eliminated. The University of Montana has

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21 22 23 24 25 26 27 28 <sup>4</sup>The supervision of the Title IX Coordinator has since changed; she is no longer the  
 Associate Dean of Students on a half-time basis and is now the fulltime Title IX  
 Coordinator.

1 stated this publicly, along with the fact that Dr. Voorhees remained an employee in good  
 2 standing throughout and was paid fully for the duration of her contract period.

3       22. The online article that Davis cited in the Petition, presumably because of  
 4 the headline (“Dean of Students asked to leave,” Missoulian, August 20, 2018), refers at  
 5 least five times to “reorganization,” “restructure,” and “redefined” or “changing” roles by  
 6 the university in relation to the elimination of the Dean of Students position. The article  
 7 also includes a reference to Dr. Voorhees being an “employee in good standing.”

8       23. Davis also falsely published that, “[i]n the total of 80 rapes over the span of  
 9 three years Dr. Voorhees oversaw, only one was convicted.”

10       24. However, while at UM, Dr. Voorhees was never responsible for  
 11 “overseeing” Title IX matters; throughout her time at UM as Dean of Students, there was  
 12 a Title IX Coordinator with those responsibilities.

13       25. Dr. Voorhees did not oversee 80 rape cases during any three-year period  
 14 while at the University of Montana (“UM”); in 2012 and 2013, long before her departure  
 15 from UM, she reviewed a high-profile Title IX case involving an athlete, wherein over  
 16 Dr. Voorhees’ objection, she was instructed to apply a higher burden of proof when  
 17 reviewing the findings.

18       26. Additionally, there was not “80 rapes” in “three years” at the University of  
 19 Montana at any time while Dr. Voorhees was Dean of Students.

20       27. In the Petition, Davis also falsely states that, “Dean Rhondie made Trans  
 21 student drop out, after coming out. Stating they violated the student conduct after an

1 incident that occurred 6mo prior.”

2 28. Dr. Voorhees vehemently rejects the characterization that she is anti-  
3 LGBTQ as Davis falsely implied. Moreover, the facts of that case, as described in the  
4 news article that Davis linked to in her own petition, indicate that the fact that the student  
5 was transgender had nothing to do with any student conduct action.

6 29. The false and defamatory statements contained in the Petition and  
7 referenced above will hereinafter collectively be referred to as the “False Statements.”

8 30. In addition to publishing the Petition, on February 15, 2021, Davis emailed  
9 at least 74 students and faculty at ERAU and directed them to “check out this petition and  
10 share.” *See Email, attached as Exhibit 3 hereto.*

11 31. Davis also posted on Facebook.com the false and defamatory implication  
12 that Dr. Voorhees was directly connected to the alleged mismanagement of Davis’s Title  
13 IX case at ERAU.

14 32. Upon information and belief, after publishing the Petition, Davis also  
15 created and disseminated at least four memes of Dr. Voorhees, each containing a False  
16 Statement or variation thereof, designed and intended to impeach Dr. Voorhees’s ability  
17 to adequately perform her duties as the Dean of Students at ERAU.

18 33. Davis’s conduct was clearly intended to cause harm to Dr. Voorhees’s  
19 reputation and interfere with her employment with ERAU.

20 34. After Dr. Voorhees confronted Davis about why and how the False  
21 Statements were not true, Davis took several days to remove the Petition, as well as the  
22

1 Facebook comment, after receiving several demands from Dr. Voorhees.

2 35. On February 16, 2021, Davis was also informed by a Title IX investigator  
3 at ERAU that Dr. Voorhees “has nothing to do with Title IX here at ERAU or any of its  
4 processes.” The investigator reiterated to Davis that the Title IX Coordinator reports to  
5 the Vice President and General Counsel for the University. He reiterated that, “Rhondie  
6 does not work within Title IX,” and “she does not report to and is not a part of the same  
7 Title IX supervision and process like Liz and I are.” Davis told the investigator on that  
8 day that she understood all of this and had no questions regarding it.

9 36. However, even after learning from an actual Title IX investigator at ERAU  
10 that the Petition contained several false and defamatory statements, Davis failed to act  
11 promptly to remove the Petition.

12 37. After receiving several demands from Dr. Voorhees to delete the Petition,  
13 Davis finally did so on February 21, 2021.

14 38. At this point, however, the False Statements began to spread well beyond  
15 ERAU, and individuals who were not affiliated with ERAU began to share the Petition  
16 on social media and make new negative comments about Dr. Voorhees.

17 39. It was explained to Davis the damage she caused and that she would  
18 continue to cause if she did not promptly issue a retraction.

19 40. For several months after publishing the False Statements, Davis continued  
20 to act with reckless indifference to the harm she continues to cause by refusing to issue  
21 any retraction.

1           41. While Dr. Voorhees has been extremely empathetic to Davis under the  
 2 circumstances, Dr. Voorhees cannot and will not allow Davis to destroy Dr. Voorhees's  
 3 reputation, which has taken decades and countless sacrifices to build.

4

5           **COUNT I—DEFAMATION AND DEFAMATION PER SE**

6           42. All of the allegations contained within the paragraphs above and below are  
 7 hereby incorporated by reference as if fully set out herein.

8           43. The False Statements made by Davis are about and concerning Dr.  
 9 Voorhees.

10           44. Without privilege, Davis communicated the False Statements to various  
 11 third parties via the Internet and/or intentionally made such statements on the Internet,  
 12 which were accessible to third parties without password protection.

13           45. Various third parties have viewed and commented on the False Statements  
 14 published on the Internet.

15           46. Davis also emailed the Petition to at least 74 people, including students,  
 16 faculty and staff through the campus email, and several people discussed the email with  
 17 Dr. Voorhees.

18           47. Given the manner in which the False Statements were published, it is  
 19 evident that the False Statements have been published to third parties with malice, spite,  
 20 or ill will and with the intent of causing harm to the reputation, employment and  
 21 economic interests of Dr. Voorhees.

22           48. The False Statements published by Davis impeach the honesty, integrity, or

1 reputation of Dr. Voorhees.

2 49. The False Statements bring Dr. Voorhees into disrepute, contempt, or  
3 ridicule.

4 50. The False Statements made by Davis constitute defamation per se and  
5 general damages are presumed as a matter of law.

6 7 51. In making and publishing the False Statements, Davis had knowledge of or  
8 acted in reckless disregard as to the falsity of the False Statements.

9 10 52. Davis published the False Statements knowing that they would be widely  
11 disseminated and result in pecuniary loss, as well as irreparable harm.

12 13 53. As a direct and proximate result of Davis posting the False Statements, Dr.  
14 Voorhees has sustained, and will continue to sustain, immediate and irreparable harm and  
15 injury including, but not limited to, damage to reputation, losses in business  
16 opportunities, loss of earnings, loss of earning capacity, and a loss of business relations  
17 with existing and future business prospects, including potentially ERAU and other  
18 academic institutions.

19 20 54. As a direct and proximate cause of the conduct by Davis, Dr. Voorhees has  
21 suffered, and will continue to suffer, humiliation, extreme emotional distress, anxiety,  
22 depression, stomach aches, headaches, lack of sleep, lack of a desire to eat, emotional  
23 pain and suffering, and anguish.

24 25 55. Upon information and belief, Dr. Voorhees has suffered a direct pecuniary  
26 loss as the result of the publication of the False Statements.

56. Dr. Voorhees has suffered general and special damages in an amount to be proven at trial.

57. In making and publishing the False Statements, Davis acted maliciously, willfully, wantonly, and unlawfully.

58. For such willful and malicious acts, Dr. Voorhees hereby seeks punitive damages in addition to actual damages.

59. Davis's acts, omissions, conduct and transactions alleged herein were aggravated, outrageous, and guided by evil motives wherein Davis intended to harm Dr. Voorhees and/or consciously pursued a course of conduct knowing that it created a substantial risk of significant harm to Dr. Voorhees.

60. To dissuade Davis from pursuing a similar course of conduct in the future and to discourage other persons from similar conduct in the future, an award of punitive damages should be awarded against Davis in the sum of sufficient magnitude to punish Davis and to deter similar conduct by others.

## COUNT II—FALSE LIGHT INVASION OF PRIVACY

61. All of the allegations contained within the paragraphs above and below are hereby incorporated by reference as if fully set out herein.

62. In making and publishing the False Statements, Davis caused Dr. Voorhees to be portrayed out of context and in false light.

63. The False Statements are about and concerning Dr. Voorhees.

64. Davis communicated the False Statements to third parties via the Internet

and email and/or intentionally made such statements on the Internet accessible to third parties without password protection.

65. Davis's False Statements are and would be highly offensive to a reasonable person and have been published to third parties with the apparent intent of causing harm to Dr. Voorhees.

66. In making and publishing the False Statements, Davis knew the False Statements were false or acted in reckless disregard as to the falsity of the False Statements.

67. As a direct and proximate cause of the conduct by Davis, Dr. Voorhees has suffered, and will continue to suffer, humiliation, extreme emotional distress, anxiety, depression, stomach aches, headaches, lack of sleep, lack of a desire to eat, emotional pain and suffering, and anguish.

68. In making and publishing the False Statements, Davis acted maliciously, willfully, wantonly, and unlawfully.

69. For such willful and malicious acts, Dr. Voorhees hereby seeks punitive damages in addition to actual damages.

70. Davis's acts, omissions, conduct and transactions alleged herein were aggravated, outrageous, and guided by evil motives wherein Davis intended to harm Dr. Voorhees and/or consciously pursued a course of conduct knowing that it created a substantial risk of significant harm to Dr. Voorhees.

71. To dissuade Davis from pursuing a similar course of conduct in the future

1 and to discourage other persons from similar conduct in the future, an award of punitive  
2 damages should be awarded against Davis in the sum of sufficient magnitude to punish  
3 Davis and to deter similar conduct by others.

4 72. There is a substantial risk that unless Davis's wrongful acts described  
5 herein are permanently enjoined, Davis will continue to irreparably injure Dr. Voorhees  
6 by publishing the False Statement and/or publishing additional false and defamatory  
7 statements.

8 73. Dr. Voorhees has no adequate remedy at law; therefore, Dr. Voorhees is  
9 entitled to injunctive relief, including, but not limited to, an order requiring Davis remove  
10 the False Statements (if any remain online) and prohibiting Davis from publishing and/or  
11 publicly communicating any false and defamatory statements.

12 **WHEREFORE**, Dr. Voorhees demands judgment against Davis as follows:

13 A. For a permanent injunction compelling Davis to remove from the Internet  
14 all false and defamatory material pertaining to Dr. Voorhees;

15 B. For a permanent injunction compelling Davis to remove from the Internet  
16 all False Statements pertaining to Dr. Voorhees;

17 C. For a permanent injunction enjoining Davis from publishing the False  
18 Statements and/or any other defamatory material to any third party;

19 D. For general damages in an amount to be proven at trial;

20 E. For special damages in an amount to be proven at trial;

21 F. For punitive damages in an amount to be proven at trial;

- 1 G. For Dr. Voorhees's costs herein incurred;
- 2 H. For Dr. Voorhees's reasonable attorneys' fees incurred herein;
- 3 I. For interest on the foregoing attorneys' fees and court costs at the statutory
- 4 rate from the date of judgment until paid;
- 5 J. For prejudgment and post-judgment interest on all damages at the highest
- 6 rate allowed by law from the date of injury until paid in full; and
- 7 K. For such other and further relief as the Court deems just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Pursuant to Federal Rule of Civil Procedure 38(b), Dr. Voorhees demands a jury  
12 trial on all the issues so triable.

13 14 RESPECTFULLY SUBMITTED this 28th day of April, 2022.

15 **RM WARNER, PLC**

16 17 By: /s/ Daniel R. Warner, Esq.  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on the submission date referenced above, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document being served via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Daniel R. Warner

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